

9 FAM 41.0

9 FAM 41.1 EXEMPTION BY LAW OR TREATY FROM PASSPORT AND VISA REQUIREMENTS

(TL:VISA-47; 8-30-91)

Nonimmigrants in the following categories are exempt from the passport and visa requirements of INA 212(a)(7)(B)(i)(I), (i)(II):

(a) Alien members of the U.S. Armed Forces.

(TL:VISA-135; 2-29-96)

An alien member of the U.S. Armed Forces in uniform or bearing proper military identification, who has not been lawfully admitted for permanent residence, coming to the United States under official orders or permit of such Armed Forces. (Sec. 284, 86 Stat. 232; 8 U.S.C. 1354.)

[Amended by 61 FR 1834, Jan. 24, 1996.]

(b) American Indians born in Canada.

(TL:VISA-2; 8-30-87)

An American Indian born in Canada, having at least 50 per centum of blood of the American Indian race (Sec. 289, 66 Stat. 234; 8 U.S.C. 1359.)

(c) Aliens entering from Guam, Puerto Rico, or the Virgin Islands.

(TL:VISA-2; 8-30-87)

An alien departing from Guam, Puerto Rico, or the Virgin Islands of the United States, and seeking to enter the continental United States or any other place under the jurisdiction of the United States (Sec. 212, 66 Stat. 188; 8 U.S.C. 1182.)

(d) Armed Services personnel of a NATO member.

(TL:VISA-2; 8-30-87)

Personnel belonging to the armed services of a government which is a Party to the North Atlantic Treaty and which has ratified the Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces, signed at London on June 19, 1951, and entering the United States under Article III of that Agreement pursuant to an individual or

collective movement order issued by an appropriate agency of the sending state or of NATO (TIAS 2846; 4 U.S.T. 1792.)

(e) Armed Services personnel attached to a NATO Headquarters in the United States.

(TL:VISA-2; 8-30-87)

Personnel attached to a NATO Headquarters in the United States set up pursuant to the North Atlantic Treaty, belonging to the armed services of a government which is a Party to the Treaty and entering the United States in connection with their official duties under the provisions of the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty (TIAS 2978; 5 U.S.T. 875.)

(f) Aliens entering pursuant to International Boundary and Water Commission Treaty.

(TL:VISA-2; 8-30-87)

All personnel employed either directly or indirectly on the construction, operation, or maintenance of works in the United States undertaken in accordance with the treaty concluded on February 3, 1944, between the United States and Mexico regarding the functions of the International Boundary and Water Commission, and entering the United States temporarily in connection with such employment (59 Stat. 1252; TS 994.)

9 FAM 41.1 Related Statutory Provisions

INA 212(a)(7)(B)(i)

(TL:VISA-47; 8-30-91)

(a) Except as otherwise provided in this Act, the following describes classes of excludable aliens who are ineligible to receive visas and who shall be excluded from admission into the United States:...

(7) DOCUMENTATION REQUIREMENTS.—

...(B) NONIMMIGRANTS.—

(i) In general.- Any nonimmigrant who is (I) not in possession of a passport valid for a minimum of six months from the date of the expiration of the initial period of the alien's admission or contemplated initial period of stay authorizing the alien to return to the country from which the alien came or to proceed to and enter some other country during such period, or

(II) is not in possession of a valid nonimmigrant visa or border crossing identification card at the time of application for admission, is excludable.

[Amended by Pub. L. 101-649, Sec. 601(a), 104 Stat. 5074; 8 U.S.C. 1182; November 29, 1990.]

INA 212(d)(7)

(TL:VISA-47; 8-30-91)

(7) The provisions of subsection (a) (other than paragraph (7)) shall be applicable to any alien who shall leave Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. Any alien described in this paragraph, who is excluded from admission to the United States, shall be immediately deported in the manner provided by section 237(a) of this Act.

[Amended by Pub. L. 101-649, Sec. 601(d), 104 Stat. 5076; 8 U.S.C. 1182; November 29, 1990.]

INA 284

(TL:VISA-2; 8-30-87)

Nothing contained in this title shall be construed so as to limit, restrict, deny, or affect the coming into or departure from the United States of an alien member of the Armed Forces of the United States who is in the uniform of, or who bears documents identifying him as a member of, such Armed Forces, and who is coming to or departing from the United States under official orders or permit of such Armed Forces: Provided, That nothing contained in this section shall be construed to give to or confer upon any such alien any other privileges, rights, benefits, exemptions, or immunities under this Act, which are not otherwise specifically granted by this Act.

INA 289

(TL:VISA-2; 8-30-87)

Nothing in this title shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race.

Article III, Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces, signed at London on June 19, 1951, in part

(TL:VISA-2; 8-30-87)

Paragraph 1

1. On the conditions specified in paragraph 2 of this Article and subject to compliance with the formalities established by the receiving State relating to entry and departure of a force or the members thereof, such members shall be exempt from passport and visa regulations and immigration inspection on entering or leaving the territory of a receiving State....

Paragraph 2

2. The following documents only will be required in respect of members of a force. They must be presented on demand:

(a) personal identity card issued by the sending State showing names, date of birth, rank and number (if any), service, and photograph;

(b) individual or collective movement order, in the language of the sending State and in the English and French languages, issued by an appropriate agency of the sending State or of the North Atlantic Treaty Organization and certifying to the status of the individual or group as a member or members of a force and to the movement ordered. The receiving State may require a movement order to be countersigned by its appropriate representative....

Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty

(TL:VISA-2; 8-30-87)

Article 2

Subject to the following provisions of this Protocol, the Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces shall apply to Allied Headquarters in the territory of a Party to the present Protocol in the North Atlantic Treaty area, and to the military and civilian personnel of such Headquarters and their dependents included in the definitions in sub-paragraphs (a), (b) and (c) of paragraph 1 of Article 3 of this Protocol, when such personnel are present in any such territory in connection with their official duties or, in the case of dependents, the official duties of their spouse or parent.

Treaty between the United States of America and Mexico respecting utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande, February 3, 1944, in part

(TL:VISA-2; 8-30-87)

Article 20

The whole of the personnel employed either directly or indirectly on the construction, operation or maintenance of the works may pass freely from one country to the other for the purpose of going to and from the place of location of the works, without any immigration restrictions, passports or labor requirements.